

SENATE BILL 395

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2lr2482
CF HB 957

By: **Senator Jennings**

Introduced and read first time: February 1, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2012

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations – Public Disclosure of Professional Credentials and**
3 **Reports on Advertising Regulations and Policies**

4 FOR the purpose of ~~requiring certain advertisements for health care services to~~
5 ~~identify and fully spell out the license or certification of certain health care~~
6 ~~practitioners; prohibiting a certain advertisement from being misleading;~~
7 ~~specifying what constitutes a misleading advertisement under this Act;~~
8 ~~requiring certain health care practitioners to disclose the practitioner's~~
9 ~~license or certification by wearing a certain identification tag; providing for~~
10 ~~the application of a certain provision of this Act; providing that health care~~
11 ~~practitioners that fail to comply with certain provisions of this Act are subject to~~
12 ~~certain disciplinary actions; authorizing the appropriate regulatory board to~~
13 ~~investigate an alleged violation of certain provisions of this Act; requiring~~
14 ~~certain regulatory boards to adopt certain regulations; prohibiting a physician~~
15 ~~from making certain representations to the public under certain circumstances;~~
16 ~~altering the authority of a physician to advertise; defining certain terms;~~
17 requiring certain health occupation boards to submit certain information
18 related to advertising by health care practitioners to certain committees of the
19 General Assembly on or before a certain date; and generally relating to the
20 public disclosure of professional credentials by health care practitioners.

21 ~~BY adding to~~

22 ~~Article — Health Occupations~~

23 ~~Section 1-701 through 1-705 to be under the new subtitle “Subtitle 7. Public~~

24 ~~Disclosure of Professional Credentials”~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Annotated Code of Maryland~~
2 ~~(2009 Replacement Volume and 2011 Supplement)~~

3 BY repealing and reenacting, with amendments,
4 Article – Health Occupations
5 Section 14–503
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2011 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Health Occupations**

11 ~~**SUBTITLE 7. PUBLIC DISCLOSURE OF PROFESSIONAL CREDENTIALS.**~~

12 ~~**1–701.**~~

13 ~~**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**~~
14 ~~**INDICATED.**~~

15 ~~**(B) “ADVERTISEMENT” MEANS ANY PRINTED, ELECTRONIC, OR ORAL**~~
16 ~~**COMMUNICATION OR STATEMENT THAT INCLUDES THE NAME OF A HEALTH**~~
17 ~~**CARE PRACTITIONER IN RELATION TO:**~~

18 ~~**(1) THE HEALTH CARE PRACTITIONER’S PRACTICE OR**~~
19 ~~**PROFESSION; OR**~~

20 ~~**(2) THE HEALTH CARE FACILITY AT WHICH THE HEALTH CARE**~~
21 ~~**PRACTITIONER IS EMPLOYED, VOLUNTEERS, OR OTHERWISE PROVIDES HEALTH**~~
22 ~~**CARE SERVICES.**~~

23 ~~**(C) “HEALTH CARE ENTITY” MEANS A BUSINESS ENTITY THAT**~~
24 ~~**PROVIDES HEALTH CARE SERVICES FOR THE:**~~

25 ~~**(1) TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN DISEASE OR**~~
26 ~~**DYSFUNCTION; OR**~~

27 ~~**(2) DISPENSING OF DRUGS, MEDICAL DEVICES, MEDICAL**~~
28 ~~**APPLIANCES, OR MEDICAL GOODS FOR THE TREATMENT OF HUMAN DISEASE OR**~~
29 ~~**DYSFUNCTION.**~~

30 ~~**(E) “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO IS**~~
31 ~~**LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE TO**~~

1 ~~PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS,~~
2 ~~PRACTICE, OR THE PROFESSION.~~

3 ~~(F) "HEALTH CARE SERVICE" MEANS MEDICAL PROCEDURES, TESTS,~~
4 ~~AND SERVICES PROVIDED TO A PATIENT BY OR THROUGH A HEALTH CARE~~
5 ~~ENTITY.~~

6 ~~1-702.~~

7 ~~(A) AN ADVERTISEMENT FOR HEALTH CARE SERVICES THAT NAMES A~~
8 ~~HEALTH CARE PRACTITIONER:~~

9 ~~(1) SHALL IDENTIFY AND FULLY SPELL OUT THE LICENSE OR~~
10 ~~CERTIFICATION HELD BY THE HEALTH CARE PRACTITIONER; AND~~

11 ~~(2) MAY NOT BE MISLEADING.~~

12 ~~(B) AN ADVERTISEMENT IS MISLEADING FOR THE PURPOSES OF~~
13 ~~SUBSECTION (A) OF THIS SECTION IF THE HEALTH CARE PRACTITIONER~~
14 ~~KNOWINGLY AND WILLFULLY INCLUDES IN THE ADVERTISEMENT A~~
15 ~~COMMUNICATION OR REPRESENTATION THAT:~~

16 ~~(1) MISSTATES OR FALSELY DESCRIBES THE HEALTH CARE~~
17 ~~PRACTITIONER'S PROFESSION, SKILLS, TRAINING, EXPERTISE, EDUCATION,~~
18 ~~LICENSURE, OR CERTIFICATION; OR~~

19 ~~(2) HOLDS THE HEALTH CARE PRACTITIONER OUT AS HAVING~~
20 ~~SKILLS, TRAINING, EXPERTISE, EDUCATION, LICENSURE, OR CERTIFICATION~~
21 ~~THAT THE HEALTH CARE PRACTITIONER DOES NOT HAVE.~~

22 ~~1-703.~~

23 ~~(A) THIS SECTION DOES NOT APPLY TO A HEALTH CARE PRACTITIONER~~
24 ~~WHO WORKS IN A NONPATIENT CARE SETTING OR WHO DOES NOT DIRECTLY~~
25 ~~INTERACT WITH PATIENTS.~~

26 ~~(B) A HEALTH CARE PRACTITIONER WHO PROVIDES HEALTH CARE~~
27 ~~SERVICES SHALL DISCLOSE THE HEALTH CARE PRACTITIONER'S LICENSURE OR~~
28 ~~CERTIFICATION BY WEARING AN IDENTIFICATION TAG DURING A PATIENT~~
29 ~~ENCOUNTER.~~

30 ~~(C) THE IDENTIFICATION TAG REQUIRED TO BE WORN UNDER~~
31 ~~SUBSECTION (B) OF THIS SECTION SHALL INCLUDE, IN A FONT SIZE THAT CAN~~
32 ~~BE EASILY READ BY A PATIENT, THE FOLLOWING:~~

1 ~~(1) THE FIRST AND LAST NAME OF THE HEALTH CARE~~
2 ~~PRACTITIONER; AND~~

3 ~~(2) THE FULL SPELLING OF THE TYPE OF LICENSE OR~~
4 ~~CERTIFICATION HELD BY THE HEALTH CARE PRACTITIONER.~~

5 ~~1-704.~~

6 ~~EACH REGULATORY BOARD UNDER THIS ARTICLE SHALL ADOPT~~
7 ~~REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

8 ~~1-705.~~

9 ~~(A) A HEALTH CARE PRACTITIONER WHO FAILS TO COMPLY WITH THE~~
10 ~~PROVISIONS OF THIS SUBTITLE SHALL BE SUBJECT TO DISCIPLINARY ACTION BY~~
11 ~~THE APPROPRIATE REGULATORY BOARD.~~

12 ~~(B) THE APPROPRIATE REGULATORY BOARD MAY INVESTIGATE AN~~
13 ~~ALLEGED VIOLATION OF THIS SUBTITLE IN ACCORDANCE WITH THE~~
14 ~~INVESTIGATIVE AUTHORITY GRANTED UNDER THIS ARTICLE.~~

15 14-503.

16 (A) A PHYSICIAN MAY NOT REPRESENT TO THE PUBLIC, ~~THROUGH AN~~
17 ~~ADVERTISEMENT,~~ THAT THE PHYSICIAN IS CERTIFIED BY A PUBLIC OR PRIVATE
18 BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, OR THAT THE PHYSICIAN IS
19 BOARD CERTIFIED UNLESS:

20 (1) ~~THE ADVERTISEMENT INCLUDES~~ PHYSICIAN DISCLOSES THE
21 FULL NAME OF THE BOARD FROM WHICH THE PHYSICIAN IS CERTIFIED AND THE
22 NAME OF THE SPECIALTY OR SUBSPECIALTY IN WHICH THE PHYSICIAN IS
23 CERTIFIED; AND

24 (2) THE CERTIFYING BOARD MEETS ONE OF THE FOLLOWING
25 REQUIREMENTS:

26 (I) THE CERTIFYING BOARD IS:

27 1. A MEMBER OF THE AMERICAN BOARD OF
28 MEDICAL SPECIALTIES; OR

29 2. AN AMERICAN OSTEOPATHIC ASSOCIATION
30 CERTIFYING BOARD;

1 (II) THE CERTIFYING BOARD HAS BEEN APPROVED BY THE
 2 BOARD; OR

3 (III) THE CERTIFYING BOARD REQUIRES THAT, IN ORDER TO
 4 BE CERTIFIED, THE PHYSICIAN, IN ORDER TO BE CERTIFIED, COMPLETE:

5 1. COMPLETE A POSTGRADUATE TRAINING
 6 PROGRAM THAT:

7 ~~1.~~ A. PROVIDES COMPLETE TRAINING IN THE
 8 SPECIALTY OR SUBSPECIALTY; AND

9 ~~2.~~ B. IS ACCREDITED BY THE ACCREDITATION
 10 COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN
 11 OSTEOPATHIC ASSOCIATION; AND

12 2. BE CERTIFIED BY THE MEMBER BOARD OF THE
 13 AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN
 14 OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.

15 (B) A physician may advertise only as permitted by the rules and regulations
 16 of the Board AND ~~IN ACCORDANCE WITH~~ SUBJECT TO SUBSECTION (A) OF THIS
 17 SECTION.

18 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December
 19 31, 2012, each health occupation board established under the Health Occupations
 20 Article shall submit any existing regulations or policies governing advertising by the
 21 health care practitioners regulated by the board to the Senate Education, Health, and
 22 Environmental Affairs Committee and the House Health and Government Operations
 23 Committee.

24 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 25 effect October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.